IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 2296 OF 2003
IN
SUIT NO. 4621 OF 1996

Mr.Prem Ratan Agarwal ..Plaintiff.

Versus

Trikambhai Nakum & Ors. ..Defendants.

Mr. A.G. Damle for the plaintiff.
None present for the Defendants.

CORAM : S. J. VAZIFDAR, J.
DATED : 18TH NOVEMBER,2005.

P.C.:

1. By this Notice of motion the plaintiff seeks a direction against defendant No.1 to pay a sum of Rs. 82,926/- towards his share of maintenance and expenses incurred by the plaintiff. The plaintiff also seeks a direction that the defendant No.1 to continue to pay Rs. 500/- per month towards the maintenance to plaintiff during the pendency of the suit.

2. The suit is filed for possession and declaration that the defendant No.1 is an unauthorised occupant and a trespasser in respect of the flat in his occupation.

3. The plaintiff had purchased the suit property at an auction conducted by the BMC. Earlier, the

developer had obtained permission to develop the project and left the building incomplete. Thereafter, the plaintiff completed the construction of the building. It is only reasonable that pending the hearing and final disposal of the suit the defendant No.1 should pay some amounts towards the use and occupation and maintenance of the building. The details of expenses incurred by the plaintiff have been furnished by the plaintiff with affidavit in support thereof. The plaintiff seeks to recover the amount in proportion to the area in occupation of the defendants. There is nothing that militates against the details furnished by the plaintiff.

4. In the circumstances, the notice of motion is made absolute in terms of prayer clauses (a) and (b).

5. Defendant No.1 shall comply with prayer (a) within six months from today. As far as prayer (b) is concerned, the amount of Rs.500/- shall be paid on or before 5th day of each month, commencing from 5th January, 2006.

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